

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DISTRICT ATTORNEY OF NEW YORK COUNTY,

Plaintiff,

-v.-

THE REPUBLIC OF THE PHILIPPINES, JOSE DURAN, ON HIS BEHALF AND AS REPRESENTATIVE OF A CLASS OF JUDGMENT CREDITORS OF THE ESTATE OF FERDINAND E. MARCOS, IMELDA MARCOS, AND FERDINAND R. MARCOS, VILMA BAUTISTA, ESTER NAVALAKSANA, LEONOR HERNANDEZ, AIDA HERNANDEZ, IMELDA MARCOS, JORGE Y. RAMOS, THE METROPOLITAN MUSEUM OF MANILA FOUNDATION, INC., GOLDEN BUDHA CORPORATION, AND THE ESTATE OF ROGER ROXAS,

14 Civ. 890 (KPF)

Defendants.

ORDER

THE REPUBLIC OF THE PHILIPPINES and JOSE DURAN, ON HIS BEHALF AND AS REPRESENTATIVE OF A CLASS OF JUDGMENT CREDITORS OF IMELDA MARCOS, FERDINAND R. MARCOS AND THE ESTATE OF FERDINAND E. MARCOS,

Plaintiffs,

14 Civ. 3829 (KPF)

-v. -

GAVINO ABAYA, JUAN ABAYA, SUSAN ABAYA, DIANE DUNNE AND BARBARA STONE,

Defendants.

KATHERINE POLK FAILLA, District Judge:

WHEREAS, by Stipulation and Order filed on January 17, 2019, in both cases (14 Civ. 890 Dkt. #489, 14 Civ. 3829 Dkt. #86), these matters were settled in accordance with the terms set forth therein; and

WHEREAS, the settlement set forth in the Stipulation and Order was conditioned upon the class represented by *Jose Duran, on His Behalf and as Representative of a Class of Judgment Creditors of the Estate of Ferdinand E. Marcos, Imelda Marcos, and Ferdinand R. Marcos* obtaining Federal Rule of Civil Procedure 23(e) approval from the United States District Court for the District of Hawaii (“Final Approval”); and

WHEREAS, by Order dated March 28, 2019, issued in *Hilao v. Estate of Ferdinand E. Marcos and DeVera v. Estate of Ferdinand E. Marcos* [USDC Hawaii Civil Action No. 1:03 Civ. 11111 (MLR), Dkt. #10735], the United States District Court for the District of Hawaii granted Final Approval of the settlement set forth in the Stipulation and Order; and

WHEREAS, the Clerk of Court of the United States District Court for the Southern District of New York (the “SDNY Clerk of Court”), pursuant to the Court’s June 15, 2015 Order for the Deposit of Funds and Property (the “June 2015 Order” (14 Civ. 890 Dkt. #91)), has custody of a cash fund held in the Disputed Ownership Fund (the “Fund”) in the Court Registry Investment System, aggregating no less than Four Million, Forty-Eight Thousand, Eight Hundred Thirty Dollars (\$4,048,830.00), comprising principal in the amount of Three Million, Eight Hundred One Thousand, One Hundred Fifty-Six Dollars (\$3,801,156.00), and accrued interest in the amount of Two Hundred Forty-

Seven Thousand, Six Hundred Seventy-Four Dollars and Seventy-Six Cents
(\$247,674.76); and

WHEREAS, the Stipulation and Order provides, *inter alia*, that upon Final Approval, the SDNY Clerk of Court shall distribute cash from the Fund to the Republic of the Philippines in the sum of Four Million Dollars (\$4,000,000); and

WHEREAS, in a hearing on December 2, 2020 (14 Civ. 890 Dkt. #539), the Court resolved separate applications for charging liens from two former counsel to the Republic of the Philippines, Kenneth C. Murphy and Salvador E. Tuy, by finding, *inter alia*, that Mr. Murphy was entitled to recover \$170,820.21 in accrued attorneys' fees and costs and that Mr. Tuy was entitled to recover \$280,000 in accrued attorneys' fees; and

WHEREAS, the Stipulation and Order also provides, *inter alia*, that upon Final Approval, the SDNY Clerk of Court shall issue initial cash distributions in the aggregate amount of \$500,000.00 to Ester Navalaksana and Leonor Hernandez (collectively, the "Sisters"), and in the aggregate amount of \$1,663,926.00 to the Golden Budha Corporation and the Estate of Roger Roxas (collectively, "GBC/Roxas"), and further provides that in the event there are insufficient funds to make full payments to the Sisters and to GBC/Roxas, the amounts shall be reduced *pro rata* based on remaining cash in the Fund; and

WHEREAS, by Order dated April 22, 2019 (14 Civ. 890 Dkt. #513, 14 Civ. 3829 Dkt. #91), this Court directed the SDNY Clerk of Court to remit the sum of Two Hundred Sixty-Two Thousand, Nine Hundred Seventy-Six Dollars

and Eighty-One Cents (\$262,976.81) to the Sisters, and to remit the sum of Eight Hundred, Seventy-Four Thousand, Nine Hundred Fifty-Eight Dollars and Thirty-One Cents (\$874,958.31) to GBC/Roxas; and

WHEREAS, by letter dated December 17, 2020 (14 Civ. 890 Dkt. #541), counsel for the District Attorney of New York County (the “District Attorney”), formerly the Plaintiff in this action, requested that the sum of Thirty Thousand Dollars (\$30,000) be remitted to the District Attorney pursuant to the Court’s June 2015 Order directing that the District Attorney be reimbursed for storage fees incurred in connection with Case No. 14 Civ. 890; and

WHEREAS, the SDNY Clerk of Court had previously agreed to waive its entitlement to deduct a fee not exceeding the fee authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office.

NOW THEREFORE, it is hereby **ORDERED** as follows:

The SDNY Clerk of Court is hereby authorized and directed to disburse from the principal component of the Fund the sum of Three Million, Five Hundred Forty-Nine Thousand, One Hundred Seventy-Nine Dollars and Seventy-Nine Cents (\$3,549,179.79) by check made payable to “*Arvin Amatorio and the Republic of the Philippines*,” and it is further

ORDERED that the aforesaid check be sent by overnight courier such as Federal Express or UPS to:

Arvin Amatorio and the Republic of the Philippines
31 West 34th Street
No. 8102
New York, New York 10001

and it is further

ORDERED that the SDNY Clerk of Court is hereby authorized and directed to distribute from the principal component of the Fund the sum of Thirty Thousand Dollars (\$30,000) by check made payable to the “*District Attorney, New York County*”, and it is further

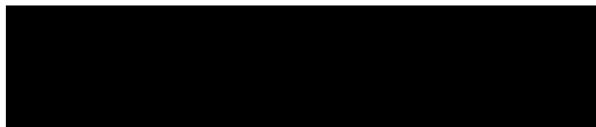
ORDERED that the aforesaid check be sent by overnight courier such as Federal Express or UPS to:

Ling Lo, Director of Fiscal Unit
New York County District Attorney’s Office
One Hogan Place
New York, New York 10013

and it is further

ORDERED that the SDNY Clerk of Court is hereby authorized and directed to disburse from the principal and interest components of the Fund on a prorated basis the sum of One Hundred Seventy Thousand, Eight Hundred Twenty Dollars and Twenty-One Cents (\$170,820.21) by check made payable to “*Kenneth C. Murphy*,” and it is further

ORDERED that the aforesaid check be sent by overnight courier such as Federal Express or UPS to:



and it is further

ORDERED that the SDNY Clerk of Court is hereby authorized and directed to disburse from the principal and interest components of the Fund on a prorated basis the sum of Two Hundred Eighty Thousand Dollars (\$280,000) from the Fund by check made payable to “*Salvador E. Tuy*,” and it is further **ORDERED** that the aforesaid check be sent by overnight courier such as Federal Express or UPS to:

Salvador E. Tuy
305 Broadway
Floor 7
New York, New York 10007

and it is further

ORDERED that the SDNY Clerk of Court is hereby authorized and directed to disburse the remaining principal and interest components of the Fund to GBC/Roxas and the Sisters, with 23% of the remaining funds disbursed to the Sisters, and 77% of the remaining funds disbursed to GBC/Roxas.

The portion of the remaining Funds that is remitted to the Sisters should be done by check made payable to “*Attorney Trust Account, The Law Firm of Cesar de Castro, P.C.*” which check must be sent by overnight courier such as Federal Express or UPS to

The Law Firm of Cesar de Castro, P.C.
7 World Trade Center, 34th Floor
New York, New York 10007

The portion of the remaining Funds that is remitted to GBC/Roxas should be done by check made payable to “*Attorney Trust Account, Baker &*

Baker, APC," which check must be sent by overnight courier such as Federal Express or UPS to

Baker & Baker, APC
970 Old Tustin Avenue
Santa Ana, California 92705

and it is further

ORDERED that Payees Murphy, Tuy, the Sisters, and GBC/Roxas shall contact the Finance Office of the SDNY Clerk of Court to provide their relevant taxpayer information, in order to enable the SDNY Clerk of Court's preparation of the necessary tax documentation, and it is further

ORDERED that the SDNY Clerk of Court transmit a copy of this Order to each of the aforementioned payees at the addresses set out above, and it is further

ORDERED that the SDNY Clerk of Court docket this Order in Case Nos. 14 Civ. 890 (KPF) and 14 Civ. 3829 (KPF), and once docketed, that the SDNY Clerk of Court terminate all pending motions, adjourn all remaining dates, and close the two cases.

SO ORDERED.

Dated: January 29, 2021
New York, New York



KATHERINE POLK FAILLA
United States District Judge